

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

CHRISTOPHER LYNN THOMPSON, : Civil Action No.: 2:13-cv-00266-CRE
individually and on behalf of all persons : ELECTRONICALLY FILED
similarly situated, :
Plaintiff, :
v. :
PEAK ENERGY SERVICES USA, INC., :
Defendant. :
:

**SUPPLEMENTAL MEMORANDUM IN SUPPORT OF PLAINTIFF'S UNOPPOSED
MOTION FOR FINAL APPROVAL OF THE SETTLEMENT AGREEMENT**

Plaintiff Christopher Lynn Thompson (“Plaintiff”) respectfully submits this supplemental memorandum in support of Plaintiff’s Unopposed Motion for Final Approval of the Settlement Agreement (“Motion for Final Approval”). (Dkt. No. 96.) Defendant Clean Harbors Surface Rentals f/k/a Peak Energy Services USA, Inc. (“Defendant” or “Peak”) does not oppose Plaintiff’s motion, and Plaintiff has submitted an amended proposed Final Approval Order for the Court’s consideration. In support of Plaintiff’s motion, Plaintiff states as follows:

1. On October 2, 2014, Plaintiff submitted his Unopposed Motion for Approval of Attorneys’ Fees and Costs. (Dkt. No. 92.) As of that date, Class Counsel’s collective lodestar was \$672,487.50, which represents 1,801.85 hours recorded on this litigation. *See* Declaration of Shanon J. Carson at ¶ 26 (“Carson Decl.”). (Dkt. No. 92-1). Class Counsel also reported its current costs in the amount of \$32,514.68. *See* Memorandum of Law In Support of Plaintiff’s Unopposed Motion for Approval of Attorneys’ Fees and Costs at 1 & n.1. (Dkt. No. 93).

2. On October 27, 2014, Plaintiff submitted his Unopposed Motion for Final Approval of the Settlement Agreement (Dkt. No. 96), and the parties submitted a Joint

Stipulation Regarding Addition of Four Pennsylvania Settlement Class Members (“Stipulation”) (Dkt. No. 95).

3. The parties’ Stipulation outlined the process by which the four (4) additional Pennsylvania Settlement Class Members (“Late PA Settlement Class Members”) would be provided with notice of and an opportunity to participate in this settlement. *See Stipulation ¶¶ 8-12.* The deadline for the four Late PA Settlement Class Members to submit a Claim Form, request exclusion from this settlement, or object to this settlement ended on November 15, 2014. *Id.* ¶ 10.

4. As of November 18, 2014, in addition to the 141 FLSA Settlement Class Members, 26 Pennsylvania Settlement Class Members have joined this action, which includes three (3) of the four (4) Late PA Settlement Class Members. None of the potential Settlement Class Members have submitted requests for exclusion or objections to the Settlement.

5. Accordingly, the maximum individual settlement award is estimated to be \$22,242.45, and the average value of all settlement awards is estimated to be \$6,821.52. All of these amounts fall within the range of minimum and maximum potential settlement awards that were previously reported to the Settlement Class Members. *See Motion for Final Approval at 10; Stipulation ¶ 12.*

6. As of November 18, 2014, Class Counsel recorded an additional 68.75 hours (\$24,397.75) drafting and filing Plaintiff’s Motion for Final Approval, participating in continued settlement administration efforts, and preparing for the Final Approval Hearing scheduled for November 19, 2014. Class Counsel’s actual, current lodestar is \$696,885.25. As a result of this additional time expended, Class Counsel’s request for attorneys’ fees amounts to only 86% of its actual, current lodestar.

7. As of November 18, 2014, Class Counsel has incurred an additional \$2,791.96 in out-of-pocket expenses litigating this case. The additional expenses are itemized as follows: \$75.31 in computer research; \$46.35 in document production and hosting costs; \$861.00 in mediation fees; \$.48 in postage; \$126.81 in notice administration costs; and \$1,682.01 in travel costs. Class Counsel's current costs are \$35,306.64. The additional expenses incurred are reasonable and necessary to the prosecution of this case.

8. Based upon the foregoing reasons asserted in this Supplemental Memorandum and for the reasons set forth in Plaintiff's Unopposed Motion for Attorneys' Fees and Costs, and Plaintiff's Unopposed Motion for Final Approval of the Settlement Agreement, Plaintiff respectfully requests that the Court enter the attached amended Final Approval Order, which reflects the additional \$2,791.96 in out-of-pocket expenses that Class Counsel has incurred.

Dated: November 18, 2014

Respectfully submitted,

s/ Shanon J. Carson

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the foregoing was served upon counsel for Defendant through the Court's ECF system this 18th day of November, 2014.

s/ Shanon J. Carson
Shanon J. Carson